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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, SEPTEMBER 10, 2001

APPLICATION OF

MIRANT DANVILLE, LLC

CASE NO. PUE010430

For approval of a certificate of public convenience and necessity pursuant to Va. Code § 56-265.2, an exemption from Chapter 10 of Title 56, and interim approval to make financial commitments and undertake preliminary construction work

ORDER FOR NOTICE AND HEARING

On August 16, 2001, Mirant Danville, LLC ("Mirant Danville" or the "Applicant"),<sup>1</sup> filed an application requesting that the State Corporation Commission ("Commission") grant the Applicant a certificate of public convenience and necessity pursuant to § 56-265.2 of the Code of Virginia (the "Code") to construct a power plant at the AirSide Industrial Park in Danville, Virginia. The facility will first be constructed as a 320 MW natural gas-fired, simple-cycle power plant with commercial operation to commence around Spring 2003. Mirant Danville then plans to install two additional combustion turbines, two heat recovery steam generators, and one steam turbine in a combined cycle configuration to add 550 MW to the plant by the end of

2004. Once completed, the project will be an 870 MW natural gas-fired electric generating facility (the "Facility").

The Facility would be interconnected to American Electric Power, Inc.'s ("AEP") 230kV East Danville to Roxboro transmission line that traverses a location near the Facility's site. AEP would build the interconnection facilities to connect the Facility to its grid, and AEP would file an application for a certificate of public convenience and necessity with the Commission for the construction of these interconnection facilities. Natural gas for the Facility would be provided by a new lateral pipeline of approximately 14 miles with service from the interstate pipeline facilities of Transcontinental Gas Pipeline Corporation.

Also in its application, pursuant to § 56-265.2 B of the Code, Mirant Danville seeks an exemption from the provisions of Chapter 10 of Title 56 (§ 56-232 et seq.) ("Chapter 10"). In support of its exemption request, Mirant Danville states that it anticipates that all of the electricity produced by the Facility will be sold on a wholesale basis, and that the Applicant will not provide retail electric service to customers in the Commonwealth. The Applicant further explains that no utility with rates regulated under Chapter 10 has a financial or

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<sup>1</sup> The Applicant states that Mirant Danville is a limited liability company wholly owned by Mirant Virginia Investments, Inc., in turn wholly owned by Mirant Americas Development, Inc.

ownership interest in Mirant Danville. Therefore, the Applicant states that no portion of the cost of the Facility will be included in the rate base of any utility subject to ratemaking pursuant to Chapter 10, and that the Applicant appropriately may be exempted.

Finally, Mirant Danville requests that the Commission grant interim approval to the Applicant to make financial expenditures and undertake preliminary construction work, pursuant to § 56-234.3 of the Code.

In support of its application, Mirant Danville states that the Facility will have no material adverse effect upon the rates paid by customers of any regulated public utility in the Commonwealth, or upon the reliability of electric service provided by those utilities.<sup>2</sup> The Applicant states that the Facility will promote the public interest by providing economic benefit to the City of Danville and the surrounding area through the increased tax base and employment opportunities the \$500 million Facility will offer. Further, Mirant Danville states that the Facility will enhance the competitive market for wholesale electricity, and provide future generation capacity.

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<sup>2</sup> The Applicant notes that a system impact study followed by a facility study is required for the planned transmission interconnection with AEP's 230 kV East Danville to Roxboro double circuit transmission line. Mirant Danville states that AEP is nearing completion of these studies and that the Applicant will provide them to the Commission once finalized.

The Applicant represents that the Facility will be constructed and operated to minimize any adverse environmental impact.

NOW THE COMMISSION, having considered the application, is of the opinion and finds that the matter should be docketed, notice of the application should be given to the public, interested persons should have an opportunity to comment or to participate in this matter, the Commission Staff should investigate Mirant Danville's proposal and present its findings to the Commission, and a hearing should be scheduled in this matter.

Accordingly, IT IS ORDERED THAT:

(1) Mirant Danville's application for a certificate of public convenience and necessity is docketed and assigned Case No. PUE010430.

(2) Pursuant to 5 VAC 5-20-120 of the Commission's Rules of Practice and Procedure (the "Rules"), a Hearing Examiner is appointed to conduct all further proceedings in this matter.

(3) A public hearing for the purpose of receiving evidence relevant to the application is scheduled for December 5, 2001, at 10:00 a.m. in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia.

(4) Mirant Danville shall promptly make a copy of its application and other materials available to the public who may

obtain copies, at no charge, by making a request in writing from counsel for the Applicant, Richard D. Gary, Esquire, and John M. Holloway III, Esquire, Hunton & Williams, Riverfront Plaza - East Tower, 951 East Byrd Street, Richmond, Virginia, 23219-4074. The application and other materials filed in this docket may also be reviewed during regular business hours at the Commission's Document Control Center, First Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia.

(5) On or before September 17, 2001, the Applicant shall serve a copy of its application and this Order, by personal delivery or by first class-mail, postage prepaid, to: The Honorable John Paul Woodley, Jr., Secretary of Natural Resources, P.O. Box 1475, Richmond, Virginia 23218; Dennis H. Treacy, Director, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240-0009; and to each investor-owned and cooperative electric utility in the Commonwealth as listed in Appendix A to this Order.

(6) On or before September 25, 2001, the Applicant shall cause the following notice to be published as display advertising (not classified) in newspapers having general circulation in the City of Danville and the Counties of Pittsylvania, Halifax, and Henry:

NOTICE OF AN APPLICATION OF  
MIRANT DANVILLE, LLC  
FOR A CERTIFICATE OF PUBLIC CONVENIENCE

AND NECESSITY TO CONSTRUCT AN  
ELECTRIC GENERATION FACILITY IN  
DANVILLE, VIRGINIA  
CASE NO. PUE010430

On August 16, 2001, Mirant Danville, LLC ("Mirant Danville" or the "Applicant"), filed an application requesting that the State Corporation Commission ("Commission") grant the Applicant a certificate of public convenience and necessity pursuant to § 56-265.2 of the Code of Virginia (the "Code") to construct a power plant at the AirSide Industrial Park in Danville, Virginia. The Facility will first be constructed as a 320 MW natural gas-fired, simple-cycle power plant with commercial operation to commence around Spring 2003. Mirant Danville then plans to install two additional combustion turbines, two heat recovery steam generators, and one steam turbine in a combined cycle configuration to add 550 MW to the plant by the end of 2004. Once completed, the project will be an 870 MW natural gas-fired electric generating facility (the "Facility").

The Facility would be interconnected to American Electric Power, Inc.'s ("AEP") 230kV East Danville to Roxboro transmission line that traverses a location near the Facility's site. AEP would build the interconnection facilities to connect the Facility to its grid, and AEP would file an application for a certificate of public convenience and necessity with the Commission for the construction of these interconnection facilities. Natural gas for the facility would be provided by a new lateral pipeline of approximately 14 miles with service from the interstate pipeline facilities of Transcontinental Gas Pipeline Corporation.

Also in its application, pursuant to § 56-265.2 B of the Code, Mirant Danville seeks an exemption from the provisions of Chapter 10 of Title 56 (§ 56-232 et seq.) ("Chapter 10"). In support of its exemption request, Mirant Danville states that it anticipates that all of the electricity produced by the Facility will be sold on a wholesale basis, and that the Applicant will not provide retail electric service to customers

in the Commonwealth. The Applicant further explains that no utility with rates regulated under Chapter 10 has a financial or ownership interest in Mirant Danville. Therefore, the Applicant states that no portion of the cost of the Facility will be included in the rate base of any utility subject to ratemaking pursuant to Chapter 10, and that the Applicant appropriately may be exempted.

Finally, Mirant Danville requests that the Commission grant interim approval to the Applicant to make financial expenditures and undertake preliminary construction work, pursuant to § 56-234.3 of the Code. Interested parties and the Staff may comment on this request for interim authority on or before October 9, 2001.

In support of its application, Mirant Danville states that the Facility will have no material adverse effect upon the rates paid by customers of any regulated public utility in the Commonwealth, or upon the reliability of electric service provided by those utilities. The Applicant argues that the Facility will promote the public interest by providing economic benefit to the City of Danville and the surrounding area through the increased tax base and employment opportunities the \$500 million Facility will offer. Further, Mirant Danville states that the Facility will enhance the competitive market for wholesale electricity, and provide future generation capacity. The Applicant represents that the Facility will be constructed and operated to minimize any adverse environmental impact.

A public hearing for the purpose of receiving evidence relevant to the application is scheduled for December 5, 2001, at 10:00 a.m. in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia.

A copy of the application and other materials may be obtained, at no charge, by making a request in writing to counsel for the Applicant,

Richard D. Gary, Esquire, and John M. Holloway III, Esquire, Hunton & Williams, Riverfront Plaza - East Tower, 951 East Byrd Street, Richmond, Virginia, 23219-4074. The application and other materials filed in this docket may also be reviewed during regular business hours at the Commission's Document Control Center, First Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia. A copy of the Commission's Order establishing the proceedings, outlining details for participation, and setting forth the complete procedural schedule is available from the Commission's web site, [www.state.va.us/scc/caseinfo/orders.htm](http://www.state.va.us/scc/caseinfo/orders.htm).

On or before October 26, 2001, any person or entity desiring to comment in writing on Mirant Danville's application for a certificate of public convenience and necessity and an exemption from Chapter 10 may do so by directing such comments to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Any person or entity desiring to make a statement at the public hearing concerning the application need only appear in the Commission's second floor courtroom in the Tyler Building at the address set forth above.

On or before October 26, 2001, any person or entity desiring to participate in this proceeding as a respondent as provided by 5 VAC 5-20-80 B of the Commission's Rules of Practice and Procedure shall file an original and fifteen (15) copies of a notice of participation with the Clerk of the Commission at the address set forth above and shall be a party to the proceeding. All notices of participation shall contain: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent now known; and (iii) the factual and legal basis for the action.

On or before November 2, 2001, any respondent shall file an original and fifteen (15) copies of the prepared testimony and exhibits the respondent intends to present at the hearing with



the Clerk of the Commission at the address set forth above.

All comments, notices of participation, and prepared testimony and exhibits shall refer to Case No. PUE010430. Copies of the same shall be, in addition to being filed with the Clerk of the Commission, simultaneously served on counsel for Mirant Danville at the address set forth above.

MIRANT DANVILLE, LLC

(7) On or before October 9, 2001, any interested party and the Staff may comment on Mirant Danville's request for interim authority to make financial expenditures and to undertake preliminary construction work pursuant to § 56-234.3 of the Code by filing such comments with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. A copy of the same shall simultaneously be served on counsel for Mirant Danville at the address set forth in Ordering Paragraph (4) above. All comments shall refer to Case No. PUE010430.

(8) On or before October 26, 2001, any person or entity desiring to comment in writing on Mirant Danville's application for a certificate of public convenience and necessity and an exemption from Chapter 10 shall file such comments with the Clerk of the Commission at the address set forth in Ordering Paragraph (7) above. A copy of the same shall simultaneously be served on counsel for Mirant Danville at the address set forth in Ordering Paragraph (4) above. All comments shall refer to

Case No. PUE010430. Any person desiring to make a statement at the public hearing concerning the application need only appear in the Commission's second floor courtroom in the Tyler Building at the address set forth in Ordering Paragraph (3) above.

(9) On or before October 26, 2001, any person or entity desiring to participate in this proceeding as a respondent as provided by 5 VAC 5-20-80 B of the Commission's Rules of Practice and Procedure shall file an original and fifteen (15) copies of a notice of participation with the Clerk of the Commission at the address set forth in Ordering Paragraph (7) above and shall be a party to the proceeding. All notices of participation shall refer to Case No. PUE010430 and shall contain: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Copies of the same shall be simultaneously served on counsel for Danville Mirant at the address set forth in Ordering Paragraph (4) above.

(10) On or before November 2, 2001, any respondent shall file an original and fifteen (15) copies of the prepared testimony and exhibits the respondent intends to present at the hearing with the Clerk of the Commission at the address set forth above. All prepared testimony and exhibits shall refer to Case No. PUE010430. Copies of the same shall be simultaneously

served on counsel for Mirant Danville at the address set forth in Ordering Paragraph (4) above.

(11) Commission Staff shall analyze Mirant Danville's application and, on or before November 19, 2001, file with the Clerk of the Commission an original and fifteen (15) copies of the prepared testimony and exhibits the Staff intends to present at the public hearing.

(12) On or before November 26, 2001, the Applicant shall file with the Clerk of the Commission an original and fifteen (15) copies of any testimony it expects to introduce in rebuttal to any direct prefiled testimony of the Commission Staff and respondents. The Applicant also shall hand-deliver a copy of such rebuttal testimony to Commission Staff.

(13) At the commencement of the hearing scheduled herein, the Applicant shall provide to the Commission proof of the notice and service required by Ordering Paragraphs (5) and (6) herein.

(14) The Applicant and respondents shall respond to written interrogatories or data requests within ten (10) days after the receipt of such requests. Except as so modified herein, discovery and hearing preparation procedures shall be in accordance with Part IV of the Rules.